



US Army Corps
of Engineers®

REGULATORY GUIDANCE LETTER

No. 07-04

Date: 31 October 2007

SUBJECT: Emergency permit processing for Mosquito Control Ditching and/or Filling Activities Requiring Department of the Army (DA) permits under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act (RHA)

1. Purpose and Applicability

a. Purpose. The purpose of this guidance is to provide clarification on the appropriateness of emergency permit processing for DA applications for mosquito control ditching and/or filling activities.

b. Applicability. This guidance applies to all requests for processing DA applications for mosquito control ditching and/or filling activities under emergency permit processing procedures in accordance with 33 CFR Part 325.2(e)(4).

2. General Considerations

a. Division Commanders are authorized to approve special processing procedures in emergency situations. An emergency situation is defined at 33 CFR Part 325.2(e)(4) as "...a situation which would result in an unacceptable hazard to life, a significant loss of property or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures."

b. Diseases such as West Nile Virus, St. Louis Encephalitis, Eastern Equine Encephalitis, and other mosquito borne diseases can be spread by the bite of an infected mosquito. Because mosquitoes can breed in very small amounts of water, eliminating temporary standing water in plastic containers, discarded tires, or other water-holding containers around one's property can greatly reduce breeding areas. Any stagnant water in rain barrels, irrigation ditches, clogged gutters, backyard home septic systems, and road-side ditches can serve as breeding sites. The difference between these water-holding places and wetlands is the presence of mosquito-eating predators. Wetlands (both freshwater and saltwater) are home to a host of mosquito-eating beetles, backswimmers, water striders, dragonfly larvae, predatory fish, etc. making them less ideal breeding sites for mosquitoes. Even after draining, a wetland may hold water from flooding, rainfall, or snowmelt. These low spots may produce more mosquitoes than healthy wetlands. In addition, filling wetlands may force water to flow elsewhere, creating flooding or additional wetlands.

<http://www.usace.army.mil/inet/functions/cw/cecwo/reg/westnile.pdf>

3. Guidance.

The final determination of whether or not to process a request for mosquito control ditching and/or filling activities under emergency procedures is left to the Division Commander or his/her designated representative. However, in general, applications for mosquito control ditching and/or filling activities will be processed using normal evaluation procedures, not emergency procedures. Applicants are encouraged to proactively plan projects and conduct routine maintenance on existing facilities. It is expected that with proper planning by applicants, most projects can be adequately addressed through normal evaluation procedures. Only in situations such as a public health hazard where a public health agency demonstrates that expeditious ditching/filling activities, in a time frame that does not allow for normal processing, are necessary to address the problem would mosquito control ditching and/or filling activities qualify for emergency procedures.

4. Duration. This guidance remains in effect unless revised or rescinded.

A handwritten signature in black ink, appearing to read "Don T. Riley", is positioned above the printed name.

DON T. RILEY
Major General, US Army
Director of Civil Works